

AMENDED IN ASSEMBLY APRIL 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

No. 821

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**Introduced by Assembly Member Brownley**

February 26, 2009

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An act to add Article 5 (commencing with Section 17615) to Chapter 5 of Part 10.5 of Division 1 of Title 1 of the Education Code, relating to school facilities.

### LEGISLATIVE COUNSEL'S DIGEST

AB 821, as amended, Brownley. School facilities: maintenance.

(1) Existing law requires the governing board of any school district to give diligent care to the health and physical development of pupils.

This bill would create the Clean and Healthy Schools Act, and would make findings and declarations regarding indoor air quality and cleaning products. The bill would require, ~~when it is economically feasible, but not later than the 2010–11 school year,~~ all school districts and all nonpublic elementary and secondary schools with 50 or more pupils, *by the 2010–11 school year, or when it is economically feasible,* to purchase and use exclusively environmentally preferable cleaning and *cleaning* maintenance products, as specified. The bill would require a school district or school to provide written notification that it will not purchase and use environmentally preferable cleaning and *cleaning* maintenance products to the State Department of Education, annually, ~~if until it determines that it is not economically feasible to purchase and use those products, until it is feasible to do so~~ *comply with the requirements described above.* The bill also would require the ~~Department of General Services and the State Department of Education~~ to post on ~~their~~ *its* Internet Web-sites *site* information to assist school

districts and schools to comply with these provisions. Because this bill would require school districts to perform new duties, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 5 (commencing with Section 17615) is  
2 added to Chapter 5 of Part 10.5 of Division 1 of Title 1 of the  
3 Education Code, to read:

4  
5 Article 5. Clean and Healthy Schools Act  
6

7 17615. This article may be cited as the Clean and Healthy  
8 Schools Act.

9 17615.1. The Legislature finds and declares all of the following:

10 (a) Children are vulnerable to, and may be severely affected by,  
11 exposure to chemicals, hazardous waste, and other environmental  
12 hazards. The ~~Federal~~ *United States* Environmental Protection  
13 Agency estimates that human exposure to indoor air pollutants can  
14 be two to five times and up to 100 times ~~higher~~ *more hazardous*  
15 than outdoor levels, and that half of schools in the United States  
16 have poor indoor air quality. The ~~California State~~ Air Resources  
17 Board has found significant indoor air quality problems in  
18 California's portable and traditional classrooms.

19 (b) Pupils, teachers, janitors, and other staff members spend a  
20 significant amount of time inside school buildings, during which  
21 time they are exposed to cleaners and *cleaning* maintenance  
22 products. ~~Cleaners and~~ *Many cleaners and cleaning* maintenance  
23 products contain known carcinogens, reproductive toxins,  
24 chemicals that cause asthma, and other hazardous ingredients.

1 (c) Asthma is the primary cause of school absences due to  
2 chronic disease in the United States, and is the leading cause of  
3 hospitalization for children under 15 years of age in California.

4 (d) Section 12400 of the Public Contract Code defines  
5 “environmentally preferable purchasing” as the procurement or  
6 acquisition of goods and services that have a lesser or reduced  
7 effect on human health and the environment when compared with  
8 competing goods or services that serve the same purpose.

9 (e) The benefits of cleaner indoor air in schools have been shown  
10 to reduce the incidence of asthma, allergies, and absenteeism in  
11 pupils, as well as increase teacher retention rates and reduce ~~worker~~  
12 *workers’* compensation claims. The use of environmentally  
13 preferable cleaning and *cleaning* maintenance products contributes  
14 to cleaner indoor air quality.

15 (f) Third-party, independent, voluntary certification programs  
16 exist that set standards for, and evaluate, environmentally  
17 preferable cleaning and *cleaning* maintenance products, ~~including~~  
18 *such as* Green Seal-~~GS-37~~ and EcoLogo-~~CCD-146~~. ~~The, among~~  
19 *others, and* current standards establish environmental requirements  
20 for industrial and institutional general-purpose, restroom, glass,  
21 ~~and carpet cleaners, carpet cleaners, floor care products, and~~  
22 *handsoaps*, intended for routine cleaning of offices, schools, and  
23 institutions, and include consideration of vulnerable populations  
24 in institutional settings, such as schools and day-care facilities.  
25 *Paint is not used or applied daily or often, and is not a*  
26 *general-purpose product used for routine cleaning of school*  
27 *facilities as described in this section.* Products certified under these  
28 standards cannot contain carcinogens, mutagens, reproductive  
29 toxins, ingredients that cause asthma, ingredients that are corrosive  
30 to skin and eyes, heavy metals, including lead, hexavalent  
31 chromium, or selenium, either in elemental form or compounds,  
32 2-butoxyethanol, alkylphenol ethoxylates, phthalates,  
33 ozone-depleting chemicals, or optical brighteners. The standards  
34 also establish specific limits on ingredients for acute toxicity, skin  
35 absorption, volatile organic compound content, inhalation toxicity,  
36 toxicity to aquatic life, bioaccumulating compounds,  
37 biodegradability, eutrophication, combustibility, and fragrances.  
38 The standards define requirements for concentrates, dispensing  
39 systems, packaging, ~~recycleability~~ *recyclability*, labeling, and  
40 training. Standards are revised periodically and may apply to

1 additional categories of products. ~~The~~ *Currently, the* standards do  
2 not apply to cleaners for household use, food preparation  
3 operations, or medical facilities, and do not apply to air fresheners,  
4 enzymatic, or microbially active products required to be registered  
5 under the ~~federal~~ *Federal* Insecticide, Fungicide, and Rodenticide  
6 Act, such as those making claims as ~~sterilizers, disinfectants,~~  
7 *disinfectants* or sanitizers.

8 (g) Existing law establishes the public school system, imposes  
9 various safety requirements, and provides state funding to school  
10 districts that contribute to operating budgets that already include  
11 janitorial programs. Schools are encouraged to use the State of  
12 California Procurement Contract to purchase environmentally  
13 preferable cleaning and *cleaning* maintenance products to maximize  
14 the available discounts and avoid developing their own separate  
15 bids.

16 17615.2. As used in this article:

17 (a) “Economically feasible” means that there is no net increase  
18 in the cleaning costs of a school.

19 (b) “Environmentally preferable cleaning and *cleaning*  
20 maintenance product *intended for routine cleaning and cleaning*  
21 *maintenance, including, but not limited to, general-purpose*  
22 *cleaners, bathroom cleaners, carpet cleaners, glass cleaners, floor*  
23 *cleaners, floor finishes, floor strippers, hand cleaners, and soaps”*  
24 means a product that meets independent, third-party certification  
25 criteria for lesser or reduced effects on human health and *the*  
26 environment compared with competing goods or services that serve  
27 the same purpose. “*Environmentally preferable cleaning and*  
28 *maintenance product” does not include any disinfecting cleaner,*  
29 *sanitizer, or any other antimicrobial product regulated by the*  
30 *Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec.*  
31 *136 et seq.), until the United States Environmental Protection*  
32 *Agency adopts a final rule that may allow these products to make*  
33 *environmentally preferable claims and obtain and use*  
34 *environmentally preferable certifications.*

35 (c) “Third-party certification” means certification by an  
36 established ~~and legitimate~~, independent, nationally recognized  
37 program developed for the purpose of identifying environmentally  
38 preferable products, ~~such as Green Seal or EcoLogo. Any~~  
39 ~~third-party certification program shall meet and that meets, at a~~  
40 *minimum* all of the following criteria:

1 (1) ~~Have~~*Has* an open, ~~transparent~~ *public* process for setting  
2 standards that involves the public and key stakeholders.

3 (2) Clearly defines the fees a manufacturer must pay for  
4 certification.

5 (3) Clearly avoids conflicts of interest in the standard setting  
6 and product evaluation process.

7 ~~(4) Have a criteria for certification that is available publically~~  
8 ~~and is transparent.~~

9 *(4) Has the criteria and standards for certification published*  
10 *and publicly available and easily accessible to purchasers,*  
11 *manufacturers, and the general public, such as through the*  
12 *program's Internet Web site, and includes a list of certified*  
13 *products that meet the standards.*

14 (5) Bases certification of the product and its packaging on  
15 criteria for reducing effects on human health and safety, ecological  
16 toxicity, other environmental impacts, and resource conservation,  
17 including, at a minimum, consideration of chemicals that cause  
18 cancer, mutagenic and reproductive harm, organ and nervous  
19 system damage, asthma, smog, ozone depletion, aquatic toxicity,  
20 bioaccumulation, and eutrophication.

21 (6) Requires periodic revisions and updates of the standards *to*  
22 *remain consistent with current research about the potential impact*  
23 *of chemicals on human health and the environment.*

24 (7) Monitors and reinforces the standards, provides for the  
25 authority to inspect the manufacturing facilities, and periodically  
26 does so.

27 (8) ~~Have~~*Has* a registered, legally protected certification mark.

28 ~~(9) Makes the standards easily accessible to purchasers and~~  
29 ~~manufacturers, for example, making them available on the~~  
30 ~~program's Internet Web site.~~

31 ~~(10)~~

32 (9) If possible, is developed by consensus *among key*  
33 *stakeholders.*

34 ~~(11) Establishes leadership levels~~

35 *(10) Establishes a leadership level* in standards for products.

36 ~~(12) Provides a list of certified products that meet the standards.~~

37 ~~(13) Requires that product manufacturers or distributors provide~~  
38 ~~training on the appropriate and safe use of their certified products.~~

39 17615.3. (a) ~~When it is economically feasible, but not later~~  
40 ~~than~~ *By the 2010–11 school year, or when it is economically*

1 *feasible*, all school districts, and all nonpublic elementary and  
2 secondary schools with 50 or more pupils, shall purchase and use  
3 exclusively environmentally preferable cleaning and *cleaning*  
4 maintenance products if an environmentally preferable cleaning  
5 and *cleaning* maintenance product exists.

6 (b) A school may deplete its existing cleaning and maintenance  
7 supply stocks and implement the new requirements in the next  
8 procurement cycle.

9 (c) If a school district or school determines that it is not  
10 economically feasible to purchase and use environmentally  
11 preferable cleaning and ~~maintenance products~~ *cleaning*  
12 *maintenance products by the 2010–11 school year*, the school  
13 district or school shall provide written notification that it will not  
14 purchase and use environmentally preferable cleaning and *cleaning*  
15 maintenance products to the State Department of Education  
16 ~~annually, until it is feasible to do so.~~ *until it determines that it is*  
17 *economically feasible to comply with the requirements of*  
18 *subdivision (a).*

19 ~~17615.4. The Department of General Services and the State~~  
20 ~~Department of Education shall post information on their~~ *its* Internet  
21 ~~Web-sites~~ *site* to assist school districts and schools in complying  
22 with Section 17615.3.

23 17615.5. This article sets minimum standards for cleaning  
24 products used in schools. Nothing in ~~these~~ *this* article shall prevent  
25 local jurisdictions from adopting guidelines that are more stringent  
26 than those defined in this article.

27 SEC. 2. If the Commission on State Mandates determines that  
28 this act contains costs mandated by the state, reimbursement to  
29 local agencies and school districts for those costs shall be made  
30 pursuant to Part 7 (commencing with Section 17500) of Division  
31 4 of Title 2 of the Government Code.